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For Immediate Release

**COMMISSIONER CLYBURN STATEMENT
ON FALSE RINGTONES CONSENT DECREE**

WASHINGTON, April 16, 2018 – The following statement can be attributed to FCC Commissioner Mignon L. Clyburn:

“I wish that I could celebrate today’s settlement as a victory for consumers and a moment in which the Commission championed consumer protection. Unfortunately, I cannot. With today’s item, the Chairman has missed an opportunity to protect consumers and betrayed his own self-professed values when it comes to process.

“Today’s consent decree attempts to address massively deceptive and harmful violations of the Commission’s rules likely impacting billions—yes, billions—of telephone calls to rural areas over the past several years. According to the consent decree, T-Mobile admits to inserting false ringtones into calls that failed to connect. This may have affected ‘hundreds of millions of calls each year’ after the practice was expressly prohibited by the Commission in January 2014.¹ This meant that consumers making calls to certain rural areas would hear ringing on their end even if the call was not actually connecting and the phone was not actually ringing at the called party’s premises. The deception made it difficult to pinpoint the problem and resolve it—consumers would think that their service was working and that the person at the other end just did not pick up.

“How many times was a loved one calling to check on the wellbeing of an elderly relative, only to have the phone ring and ring with no answer? How many times did a consumer try calling his or her doctor for an urgent refill of an important prescription, only to think that nobody was picking up on the other end of the call? Childcare providers, employers, local businesses, old friends—what critical information was missed?

“How did the Commission address this situation? With a severely mismatched consent decree, negotiated by the Chairman’s office. The \$40 million civil penalty, which will be paid to the U.S. Treasury, is dwarfed by larger, unpaid fines recently proposed against individual robocallers—and the volume of potential violations here outpaces any robocalling action the Commission has taken. And the compliance plan does not contain any concessions that would explain such a massive discount.

¹ *T-Mobile USA, Inc.*, Order and Consent Decree, DA 18-373 (Apr. 2018).

“Perhaps most importantly, there is absolutely nothing in this consent decree to compensate consumers. Prior consent decrees have included direct-to-consumer benefits, such as refunds or discounts, or notifications to customers who have been impacted.² Despite demonstrating a clear and tangible consumer harm, in this consent decree, consumers are treated as a mere afterthought.

“Finally, I take issue with the fact that the Chairman, once again, failed to honor my request to have the full Commission vote on an item set to be released by a bureau. This is the first time the Commission, either at the Commission-level or through delegated authority, has considered violations of the rule prohibiting injecting false ringtones into calls that fail to connect. And, far from delegating authority, the Chairman’s office was directly engaged in negotiating this item. As the Chairman, himself, has noted, ‘if any one Commissioner’ requests a Commission vote on a delegated authority item, ‘that request would be honored.’³ Unfortunately, my request was ignored.

“This settlement should have been a bipartisan action on a bipartisan issue—rural call completion—that has plagued the entire industry for years. Unfortunately, in this case, the punishment does not fit the violation, the process was flawed, and consumers were not made whole.”

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² See, e.g., *T-Mobile USA, Inc.*, Order and Consent Decree, 31 FCC Rcd 11410 (EB 2016); *Birch Communications, Inc.*, Order and Consent Decree, 31 FCC Rcd 13510 (EB 2016); *AT&T Services, Inc.*, Order and Consent Decree, 31 FCC Rcd 8540 (EB 2016); *AT&T Mobility LLC*, Order and Consent Decree, 29 FCC Rcd 11803 (EB 2014).

³ *Oversight of the FCC: Before the S. Comm. On Commerce, Sci., & Transp.*, 114th Cong. (March 18, 2015) (Statement of FCC Commissioner Ajit Pai).